

ORDER NO. 1571

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton;
Tony Hammond; and
Robert G. Taub

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21) Negotiated Service Agreement

Docket No. CP2013-20

ORDER APPROVING AN ADDITIONAL GLOBAL RESELLER
EXPEDITED PACKAGE CONTRACTS 1 NEGOTIATED SERVICE AGREEMENT

(Issued December 10, 2012)

I. INTRODUCTION

The Postal Service seeks to include a Global Reseller Expedited Package (GREP) contract (Agreement) within the GREP Contracts 1 product.¹ For the reasons discussed below, the Commission approves the request.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, November 21, 2012 (Notice). The Notice was filed pursuant to 39 CFR 3015.5.

II. BACKGROUND

Product history. The GREP Contracts 1 product encompasses Postal Service agreements with resellers who market Express Mail International (EMI) and Priority Mail International (PMI) to their customers at discounted prices. Notice at 4. The Commission added GREP Contracts 1 to the competitive product list by operation of Order No. 445, issued in Docket No. MC2010-21, following consideration of a Postal Service request based on Governors' Decision No. 10-1.² The Commission concurrently established the GREP 1 contract filed in related Docket No. CP2010-36 as the baseline agreement for comparing potentially functionally equivalent agreements proposed for inclusion under the GREP Contracts 1 grouping. *Id.*

The instant docket. In Order No. 1553, the Commission provided public notice of the Postal Service's filing, established the instant docket for consideration of the filing's consistency with applicable policies and regulations, appointed a Public Representative, and provided interested persons with an opportunity to comment.³

The Postal Service identifies the Agreement as a successor to the GREP agreement (Existing Agreement) approved in Docket No. CP2012-21. Notice at 3. The Existing Agreement terminates the day prior to the effective date of the Agreement, which will be established by the Postal Service after receiving regulatory approval. *Id.* Attachment 1 (Article 11). It will remain in effect for 1 calendar year from the effective date unless terminated sooner pursuant to contractual options. *Id.*

III. THE POSTAL SERVICE'S POSITION

The Postal Service asserts that its filing demonstrates that the Agreement complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline agreement, and therefore requests that the instant contract be included within

² See Docket Nos. MC2010-21 and CP2010-36, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, April 22, 2010 (Order No. 445).

³ Notice and Order Concerning an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, November 26, 2012 (Order No. 1553).

the GREP Contracts 1 product. *Id.* at 2-3. It asserts that it believes the instant Agreement fits within the Mail Classification Schedule language for GREP Contracts 1. *Id.* at 3. It addresses functional equivalency, including discussion of the similarities and differences between the Agreement and the baseline agreement. *Id.* at 3-4. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and identical functional terms. *Id.* at 3.

The Postal Service identifies numerous differences between the Agreement and the baseline agreement, but asserts that the differences do not affect the fundamental service that it is offering or the fundamental structure of the Agreement.⁴ *Id.* at 5-7.

IV. COMMENTS

The Public Representative filed comments on December 5, 2012.⁵ No other comments were received.

The Public Representative concludes, based on his review of the Notice, the Agreement, and the supporting financial model, that the Agreement is functionally equivalent to the baseline agreement. PR Comments at 2. He also states that it appears that negotiated prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. 3633. *Id.*

V. COMMISSION ANALYSIS

Scope and nature of review. The Commission's responsibilities in this case are to ensure that the Agreement (1) is functionally equivalent to the baseline agreement; and (2) satisfies the requirements of 39 U.S.C. 3633 and applicable Commission rules.

Functional equivalence. The Commission has reviewed the Postal Service's reasons for concluding that the instant Agreement shares similar cost and market

⁴ Differences include, among others, revisions to definitions, the addition of definitions, clarifications of obligations, and the inclusion of new articles. *See id.* at 5-7.

⁵ Public Representative Comments on Postal Service Notice of Filing an Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, December 5, 2012 (PR Comments).

characteristics with the baseline agreement, meets the pricing formula and classification established in Governors' Decision No. 10-1, and comports with 39 U.S.C. 3633 and related Commission's rules. It also has considered the Public Representative's views. The Commission concludes that the Agreement and the baseline agreement are substantially similar and that the differences the Postal Service identifies do not undermine a finding of functional equivalency. The Commission therefore finds that the instant Agreement may be included in the GREP Contracts 1 product.

Cost considerations. The Commission has reviewed the Notice, supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the instant Agreement should cover its attributable costs, as required by 39 U.S.C. 3633(a)(2). It finds that the Agreement should not result in competitive products being subsidized by market dominant products as prohibited by 39 U.S.C. 3633(a)(1). It also finds the Agreement should have a positive effect on competitive products' contribution to institutional costs, consistent with 39 U.S.C. 3633(a)(3). Accordingly, a preliminary review of the instant Agreement indicates that it is consistent with the provisions applicable to rates for competitive products. The Commission therefore finds that the Agreement is appropriately included within the GREP Contracts 1 product.

Follow-up submissions. The Postal Service shall promptly notify the Commission of the effective date of the instant Agreement. Upon termination of the instant Agreement by either party, the Postal Service shall inform the Commission of this development. In addition, within 30 days of the termination of the instant Agreement, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

It is ordered:

1. The Agreement filed in Docket No. CP2013-20 is included within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.

2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.
3. The Postal Service shall notify the Commission upon termination of the Agreement by either party in accordance with the terms set out in the body of this Order.
4. Within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

By the Commission.

Shoshana M. Grove
Secretary